

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: QWEST CORPORATION	DOCKET NO. TF-02-509 (RPU-98-4)
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**ORDER GRANTING JOINT MOTION FOR ALTERNATIVE PROCEDURE,
CANCELING HEARING, AND ESTABLISHING
MODIFIED PROCEDURAL SCHEDULE**

(Issued February 5, 2003)

On October 3, 2002, Qwest Corporation (Qwest) filed with the Utilities Board (Board) a proposed tariff revision and supporting documents, identified as Docket No. TF-02-509. Revisions to the proposed tariff were filed on October 24, 2002. Qwest requests the Board approve its tariff revision that reflects a reduction in its public access line (PAL) rates consistent with Section 276 of the Telecommunications Act of 1996 (Act) and the Federal Communications Commission's (FCC) decisions interpreting the Act.

On October 23, 2002, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to Qwest's tariff filing. Consumer Advocate's objection raised four issues: 1) whether Qwest's price plan permits Qwest to implement the deferred year-three price decrease by decreasing only its PAL rates or rather requires Qwest to reduce all BCS prices by the appropriate percentage; 2) whether Qwest is entitled to an offset in the amount of \$86,315, determined as a result of deaveraging business rates in Docket No. RPU-00-1; 3)

whether the proposed PAL rates would result in a revenue decrease in the amount claimed by Qwest; and 4) whether the proposed PAL rates are an “exogenous factor” entitling Qwest to seek proportional increases in other rates some time in the future.

On October 30, 2002, the Board issued an order docketing Qwest’s proposed tariff for investigation and establishing a procedural schedule. Qwest filed direct testimony on December 4, 2002, pursuant to the Board’s order. Consumer Advocate had the opportunity to file direct testimony on January 13, 2003, but elected not to do so. A hearing on the matter is scheduled for February 11, 2003.

On January 24, 2003, the parties filed with the Board a joint motion for alternative procedure. The parties state that the first issue raised by Consumer Advocate’s objection will be resolved by the ongoing judicial review proceeding identified as Iowa Supreme Court Docket No. 02-0720 (Polk County No. AA 3693). The parties request that the Board postpone a determination on this issue until the judicial review proceeding is concluded and that the required third-year BCS price decrease as implemented should remain in effect pending a final ruling by the Iowa Supreme Court. The parties state that any necessary revision in BCS rates following the Iowa Supreme Court’s decision should be implemented on a prospective basis.

With respect to the second issue raised by Consumer Advocate’s objection, Consumer Advocate states in the joint motion that it withdraws its objection to Qwest’s claim that it is entitled to an \$86,315 offset as a result of deaveraging business rates in Docket No. RPU-00-1.

Finally, with respect to the third and fourth issues raised by Consumer Advocate in its objection to Qwest’s tariff filing, the parties state in their joint motion

that they believe these issues can be determined without an evidentiary hearing. Rather, the parties believe that these issues can be determined on the basis of briefs submitted by the parties. The parties request that in lieu of a record created at an evidentiary hearing, these remaining issues be submitted to the Board on a record consisting of Qwest's pre-filed testimony as submitted on December 4, 2002, and Qwest's responses to Consumer Advocate's Data Requests Nos. 01-002 and 01-003, which Consumer Advocate proposes to submit with its initial brief.

The parties further propose that the Board amend the existing procedural schedule to cancel the evidentiary hearing and establish a modified briefing schedule.

The Board has considered the parties request and finds it to be reasonable. Therefore, the parties' joint request for alternative procedure will be granted. The evidentiary hearing scheduled for February 11, 2003, is canceled. A modified briefing schedule will be established to address the remaining two issues raised in Consumer Advocate's objection as discussed in this order. However, the Board will request that Consumer Advocate file Qwest's responses to Consumer Advocate's Data Requests Nos. 01-002 and 01-003, within seven days of the issuance of this order to allow the Board an opportunity to review the information prior to receiving the parties' briefs.

IT IS THEREFORE ORDERED:

1. The joint motion for alternative procedure filed by Qwest Corporation and Consumer Advocate Division of the Department of Justice is granted.

2. The evidentiary hearing scheduled for February 11, 2003, at 9 a.m. for the purpose of receiving testimony and cross-examination is canceled pursuant to the request of the parties.

3. The procedural schedule established by the Board's October 30, 2002, order is modified to reflect the following changes:

a. Qwest shall file an initial brief on or before February 17, 2003, as discussed in the body of this order.

b. Consumer Advocate shall file an initial brief on or before February 27, 2003, as discussed in the body of this order.

c. Qwest may file a reply brief on or before March 7, 2003.

4. Consumer Advocate shall file Qwest's responses to its Data Requests Nos. 01-002 and 01-003, within seven days of the date of this order. These responses shall become part of the evidentiary record in this matter, along with the prefiled direct testimony submitted by Qwest Corporation on December 4, 2002.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 5th day of February, 2003.